

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

LANCE CUTTS,	)	
	)	
Plaintiff(s),	)	
	)	
vs.	)	Case No. 4:11CV01031 JCH
	)	
CITY OF KIRKWOOD, et al.,	)	
	)	
Defendant(s).	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on its review of Plaintiff's Second Amended Complaint. (ECF No. 43). The Court previously ordered Plaintiff to file an amended complaint that conformed with Rules 8 and 10 of the Federal Rules of Civil Procedure and clarified his causes of action against each defendant. (See ECF No. 41). As discussed more fully below, Plaintiff's Second Amended Complaint fails to comply with the Court's instructions. Therefore, the Court orders Plaintiff to file an amended complaint using the Civil Complaint form provided by the Clerk of the Court. Plaintiff's failure to file an amended complaint that complies with the Court's instructions will result in a dismissal of this action without prejudice.

As before, Plaintiff's Second Amended Complaint does not comply with Rule 8. Rule 8(a)(2) requires that a complaint must contain "a short and plain statement of the claim showing that [Plaintiff] is entitled to relief," while Rule 8(d)(1) notes "[e]ach allegation must be simple, concise, and direct." The Second Amended Complaint is lengthy and disordered, and the individual allegations are disjointed and impossible to parse. The Court again will order Plaintiff to file an amended complaint that complies with Rule 8. Plaintiff must use the Civil Complaint form, state his allegations in numbered paragraphs, and attach exhibits, if any, at the end of the amended complaint.

Plaintiff should also label his exhibits by number--*e.g.*, “Exhibit 1” and “Exhibit 2”--and refer to them in the amended complaint by such designations.

Additionally, the causes of action that Plaintiff intends to pursue against each defendant remain unclear. The Court is still uncertain as to whether Plaintiff wishes to pursue his claims under 42 U.S.C. §§ 1981 and 1983, the federal employment discrimination statutes, or all of the above. In numbered paragraphs, Plaintiff must state the conduct he complains of with respect to each defendant and state the specific statute he claims that each defendant violated. Thus, Plaintiff must state exactly what each defendant did, or failed to do, that allegedly violated his rights.

As before, Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and claims that are not re-alleged are deemed abandoned. E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). In addition, all of Plaintiff’s claims must arise out of the same transaction or occurrence--in other words, all claims must relate to each other. See Fed.R.Civ.P. 18(a) and 20(a)(2).

Plaintiff is ordered to file an amended complaint by **Wednesday, December 14, 2011**. If Plaintiff does not file an amended complaint that complies with this Memorandum and Order by this date, this action will be dismissed without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff shall file an amended complaint that complies with this Memorandum and Order by **Wednesday, December 14, 2011**.

**IT IS FURTHER ORDERED** that the Clerk shall mail to Plaintiff, along with a copy of this order, a copy of the Court-provided “Civil Complaint” form. Plaintiff shall use this form in preparing his amended complaint.

Dated this 30th day of November, 2011.

/s/Jean C. Hamilton

UNITED STATES DISTRICT JUDGE